

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

ERIC L. JEFFRIES,

Plaintiff

v.

C-1-01-680

PRUDENTIAL INSURANCE
COMPANY OF AMERICA,

Defendant

ORDER

This matter is before the Court upon the Report and Recommendation of the United States Magistrate Judge (doc. no. 57), plaintiff's objections (doc. no. 58) and defendant's response (doc. no. 59). The Magistrate Judge concluded that plaintiff should be denied 1) a declaration that he is entitled to future benefits through age 67; 2) a declaration that the policy does not provide discretion to defendant; 3) a declaration that "objective medical evidence of disability is not required for benefits to issue; 4) a declaration that an illness that waxes and wanes may be totally disabling; and 5) an award of attorney fees. The Magistrate Judge therefore recommended that plaintiff's Motion for Summary Judgment be denied; defendant's Motion for Summary Judgment be granted; and this matter be terminated on the docket of this Court.

The parties have agreed that interest is owed on past due benefits to plaintiff. The Magistrate Judge took no position on the plaintiff's claim for interest.

Plaintiff objects to the Judge's Report and Recommendation on the grounds that his findings are contrary to law.

Upon a *de novo* review of the record, especially in light of plaintiff's objections, the Court finds that plaintiff's objections have either been adequately addressed and properly disposed of by the Judge or present no particularized arguments that warrant specific responses by this Court. The Court finds that the Magistrate Judge has accurately set forth the controlling principles of law and properly applied them to the particular facts of this case and agrees with the Judge. Further, the Court finds that the parties have stipulated that defendant shall pay to plaintiff the sum of \$37,500.00 for interest due to plaintiff on the delayed payment of benefits which are the subject of this action. (doc. no. 60).

Accordingly, the Court hereby **ADOPTS AND INCORPORATES HEREIN BY REFERENCE** the Report and Recommendation of the United States Magistrate Judge (doc. no. 57). Plaintiff's Motion for Summary Judgment (doc. no. 48) is **DENIED** and defendant's Motion for Summary Judgment (doc. no. 47) is **GRANTED**. The plaintiff's requests for declaratory judgment and attorney fees are **DENIED**. Plaintiff is awarded a judgment for interest of \$37,500.00. Each party shall pay their own costs.

This case is **TERMINATED** on the docket of this Court.

IT IS SO ORDERED.

s/Herman J. Weber
Herman J. Weber, Senior Judge
United States District Court